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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/168063

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 14, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on October 01, 2015.

The issue for determination is whether petitioner's appeal is timely

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED], M.A., CCC-SLP (written appearance only)  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Marinette County.

2. On or about February 19, 2015, the petitioner along with his provider, [REDACTED], requested Prior Authorization (PA) no. [REDACTED], regarding speech and language therapy services. Exhibit 2.
3. On February 17, 2014, the respondent issued a notice to petitioner indicating that it had denied the PA request. The notice specified that petitioner could appeal from the modification, and that any such appeal would need to be filed within 45 days. The notice specifically indicated that an appeal needed to be received by May 9, 2015. Exhibit 2.
4. The petitioner appealed the modification via a Request for Hearing postmarked August 14, 2015, and received on August 17, 2015. Exhibit 1.

### **DISCUSSION**

Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. The Division of Health Care Access and Accountability denied the petitioner's request for speech and language therapy on March 25, 2015.

The respondent's letter denying the request was sent to the petitioner's address and stated that any appeal must be filed by May 9, 2015. That letter indicated that the letter must include "[t]he reason you think the denial or modification of the prior authorization is wrong" and further cautioned that "[y]ou will lose your right to an appeal" if it is late. At hearing, the petitioner did not present any good cause for the delay in appealing the denial. Because the appeal was filed three months after the expiration of the appeal period, I have no jurisdiction to consider it and must dismiss it.

Nothing in this decision would preclude petitioner from submitting a new Prior Authorization request for speech and language therapy. Petitioner is encouraged to share the respondent's September 4, 2015, correspondence with her provider prior to the preparation of a new Prior Authorization, in order that his provider may preemptively address the deficiencies identified in the Prior Authorization at issue here.

### **CONCLUSIONS OF LAW**

There is no jurisdiction to consider the petitioner's appeal because it is untimely.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 14th day of October, 2015

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 14, 2015.

Division of Health Care Access and Accountability